



महाराष्ट्र शासन राजपत्र असाधारण भाग आठ

वर्ष २, अंक २३(३)]

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असाधारण क्रमांक ३४

प्राधिकृत प्रकाशन

महाराष्ट्र विधानमंडळाचे अधिनियम व राज्यपालांनी प्रख्यापित केलेले अध्यादेश व केलेले विनियम आणि विधि व न्याय विभागाकडून आलेली विधेयके (इंग्रजी अनुवाद).

In pursuance of clause (3) of article 348 of the Constitution of India, the following translation in English of the Maharashtra Settlement of Arrears in Disputes Bill, 2016 (L.A. Bill No. XIX of 2016), introduced in the Maharashtra Legislative Assembly on the 7th April 2016, is hereby published under the authority of the Governor.

By order and in the name of the Governor of Maharashtra,

PRAKASH H. MALI,
Secretary to Government,
Law and Judiciary Department.

L. A. BILL No. XIX OF 2016.

A BILL

to provide for settlement of arrears in dispute under various Acts administered by the Sales Tax Department and the matters connected therewith or incidental thereto.

WHEREAS it is expedient to provide for settlement of arrears in dispute under the Bombay Sales of Motor Spirit Taxation Act, 1958 (since repealed), the Bombay Sales Tax Act, 1959 (since repealed), the Maharashtra Sales Tax on the Transfer of the Right to use any Goods for any Purpose Act, 1985 (since repealed), the Maharashtra Sales Tax on the Transfer of Property in Goods involved in the Execution of Works Contract (Re-enacted) Act, 1989 (since repealed), the Central Sales Tax Act, 1956, the Maharashtra Purchase Tax on Sugarcane Act, 1962, the Maharashtra State Tax on Professions, Trades, Callings and Employments Act, 1975, the Maharashtra Tax on Entry of Motor Vehicles into Local Areas Act, 1987, the Maharashtra Tax on Luxuries Act,

1987, the Maharashtra Tax on the Entry of Goods into Local Areas Act, 2002 and the Maharashtra Value Added Tax Act, 2002 ; it is hereby enacted in the Sixty-seventh Year of the Republic of India as follows :—

Mah. IV
of 2003.
Mah. IX
of 2005.

Short title,
extent and
commencement.

1. (1) This Act may be called the Maharashtra Settlement of Arrears in Disputes Act, 2016.

(2) It extends to the whole of the State of Maharashtra.

(3) It shall come into force on the date of publication in the *Official Gazette*.

Definitions.

2. (1) In this Act, unless the context otherwise requires,—

(1) “appellate authority” means the authorities specified in section 8 of this Act ;

(2) “arrears in dispute” includes,—

(i) tax, by whatever name called, under the relevant Act;

(ii) interest payable by an applicant under the relevant Act;

(iii) penalty imposed upon the applicant under the relevant Act, in respect of any statutory order pertaining to any period ending on or before the 31st March 2012, against which appeal is filed and stay in full or part has been granted by the appellate authority under the relevant Act or, as the case may be, by the Tribunal or Court, not later than 30th September 2016 ;

(3) “applicant” means a person, who is liable to pay tax under the relevant Act and also includes any person who desires to avail the benefit of settlement by complying with the conditions under this Act ;

(4) “order of settlement” means an order issued under this Act for settlement of arrears in dispute under the relevant Act ;

(5) “Commissioner” means a officer appointed as the Commissioner of Sales Tax under sub-section (1) of section 10 of Maharashtra Value Added Tax Act, 2002 ;

Mah. IX
of 2005.

(6) “designated authority” means an authority specified in sub-section (2) of section 3 of this Act ;

(7) “relevant Act” means,—

(a) the Central Sales Tax Act, 1956 ;

74 of
1956.

(b) the Bombay Sales of Motor Spirit Taxation Act, 1958 ;

Bom. LXV
of 1958.

(c) the Bombay Sales Tax Act, 1959 ;

Bom. LI
of 1959.

(d) the Maharashtra Purchase Tax on Sugarcane Act, 1962 ;

Mah. IX
of 1962.

(e) the Maharashtra State Tax on Professions, Trades, Callings and Employment Act, 1975 ;

Mah. XVI
of 1975.

(f) the Maharashtra Sales Tax on the Transfer of the Right to use any Goods for any Purpose Act, 1985 ;

Mah.
XVIII of
1985.

(g) the Maharashtra Tax on Entry of Motor Vehicles into Local Areas Act, 1987 ;

Mah.
XLII of
1987.

Mah. XLI
of 1987.

(h) the Maharashtra Tax on Luxuries Act, 1987 ;

Mah.
XXXV of
1989.

(i) the Maharashtra Sales Tax on the Transfer of Property in Goods involved in the Execution of Works Contract (Re-enacted) Act, 1989 ;

Mah. IV
of 2003.

(j) the Maharashtra Tax on Entry of Goods into Local Areas Act, 2002 ;

Mah. IX
of 2005.

(k) the Maharashtra Value Added Tax Act, 2002,

and includes the rules made or notifications issued thereunder ;

(8) “requisite amount” means an amount required to be paid as specified under section 6 of this Act;

(9) “statutory order” means any order passed under the relevant Act, raising tax, interest or penalty payable by the applicant.

(2) Words and expressions used in this Act, but not defined herein shall have the same meanings as assigned to them under the relevant Act.

3. (1) The State Government hereby appoints Commissioner of Sales Tax as the Commissioner under this Act, for the purposes of this Act.

Designated
authority.

Mah. IX
of 2005.

(2) The officers mentioned in sub-section (2) of section 10 of the Maharashtra Value Added Tax Act, 2002, shall be the designated authorities for the purposes of this Act. The subordination of the said officers shall be as per rule 5 of the Maharashtra Value Added Tax Rules, 2005.

(3) The Commissioner may, by notification in the *Official Gazette*, delegate such powers to the designated authorities as specified in sub-section (2) and such authorities shall, within their jurisdiction, exercise the powers over such area or areas, as notified, from time to time.

4. (1) The applicant who desires to settle the arrears in dispute shall submit the application to the designated authority, upto the 30th September 2016 in such form and in such manner, along with the proof of payment of requisite amount as per sub-section (1) or (2) of section 6 of this Act.

Conditions for
settlement.

(2) A separate application shall be made by an applicant for each statutory order, under each of the relevant Act.

(3) The applicant shall produce the proof of withdrawal of appeal, if any, as per section 5.

(4) The applicant shall pay the full amount of undisputed arrears under the relevant Act in respect of the statutory order for which waiver is sought.

5. The applicant who desires to avail the waiver under this Act with respect to the arrears in dispute shall withdraw the appeals pending before the appellate authority or Tribunal or, as the case may be, before the Court on or before the 30th September 2016 :

Withdrawal of
appeal.

Provided that, where the applicant desires to opt for settlement of arrears in dispute for some of the issues raised in appeal then he shall withdraw the appeal in respect of such issues.

Determination
requisite
amount and
extent of
waiver.

6. (1) Where the arrears in disputes pertain to any assessment period ending on or before the 31st March 2005 under the relevant Act, then the extent of waiver shall be in excess of the requisite amount payable as specified in column (2) of the Table as below :—

TABLE-1

Type of Arrears (1)	Conditions for Waiver (2)	Extent of Waiver (3)
Arrears in disputes related to section 5 of this Act.	<p>(i) The applicant shall pay whole amount of tax out of arrears in disputes after reducing it by the part payment covered by sub-section (4) of this section.</p> <p>(ii) In case, where the appeal is withdrawn for some of the issues, then the applicant shall pay the whole amount of tax relating to such issues withdrawn in appeal and credit of part payment covered by sub-section (4) of this section will be given in proportion to tax involved in the issues withdrawn in appeal.</p>	<p>(a) Total amount of interest and penalty out of arrears in disputes pertaining to issues withdrawn as provided in section 5.</p> <p>(b) Total amount of post assessment penalty and interest, accrued upto date of payment of tax made as per column (2) and such penalty and interest on payment of tax considered under sub-section (4) of this section pertaining to issues withdrawn as provided in section 5.</p>

(2) Where the arrears in disputes pertain to any assessment period on or after the 1st April 2005 and ending upto the 31st March 2012 under the relevant Act, then the extent of waiver shall be in excess of the requisite amount payable as specified in column (2) of the Table as below :—

TABLE-2

Type of Arrears (1)	Conditions for Waiver (2)	Extent of Waiver (3)
Arrears in disputes related to section 5 of this Act.	(i) The applicant shall pay whole amount of tax and twenty five per cent. of outstanding interest out of arrears in disputes after reducing it by the part payment covered by sub-section (4) of this section.	(a) Balance amount of interest, whole amount of penalty out of arrears in disputes, pertaining to issues withdrawn as provided in section 5.

TABLE-2—Contd.

(1)	(2)	(3)
	(ii) In case, where the appeal is withdrawn for some of the issues, then the applicant shall pay the whole amount of tax and twenty five per cent. of outstanding interest out of arrears in disputes relating to the issues withdrawn in appeal and credit of part payment covered by sub-section (4) of this section will be given in proportion to the tax involved in issues withdrawn in appeal.	(b) total amount of post assessment interest and penalty accrued upto date of payment of tax made as per column (2) and on payment of tax considered under sub-section (4) of this section pertaining to issues withdrawn as provided in section 5.

(3) The payment of requisite amount under sub-sections (1) and (2) of this section, shall be made in the form of Challan prescribed under the relevant Act or, as the case may be, in Form MTR-6 prescribed under the Maharashtra Value Added Tax Rules, 2005.

(4) Notwithstanding anything contained in any provision under the relevant Act, the part payment made in appeal before the appellate authority, under the relevant Act, Tribunal or Court, shall be considered for payment of the requisite amount under this Act, and it shall first be adjusted against the tax and thereafter towards the amount of interest and the balance amount remaining unadjusted shall then be adjusted towards the penalty.

(5) The extent of waiver as per this section shall be granted in proportion of the payment made under sub-sections (1) and (2) of this section by the applicant.

7. (1) The designated authority may, issue a defect notice for the incomplete or incorrect application. The applicant shall within fifteen days from the receipt of the notice ,correct the defects and make the payment, if any, and submit to the designated authority accordingly. If the applicant fails to do so then, the designated authority may, for reasons to be recorded in writing and after giving an opportunity of being heard, may reject the application for settlement of the arrears in dispute by an order.

Disposal of application.

(2) The designated authority shall, on receipt of application alongwith proof of withdrawal of appeal, payment of requisite amount, and being satisfied that all conditions for waiver are fulfilled, pass an order for each application for settlement of arrears in dispute.

(3) Notwithstanding anything contained in the relevant Act, the applicant shall be discharged from his liability to make payment of the amount of such arrears in dispute under the relevant Act for which the order of settlement has been passed.

(4) The designated authority may, on his own motion or on application of the applicant, within thirty days from the date of receipt of order by the applicant under sub-section (2) of this section, rectify any error apparent on the face of the record :

Provided that, no such order adversely affecting the applicant shall be passed without giving a reasonable opportunity of being heard to the applicant.

Appeal. **8.** (1) An appeal against the order passed under sub-section (1) of section 7 shall lie to,—

(a) the Deputy Commissioner, if order is passed by the authority subordinate to him,

(b) the Additional Commissioner, if the order is passed by the Deputy Commissioner or the Joint Commissioner.

(2) The applicant may file an appeal against the order under sub-section (1) of section 7, before the appellate authority within sixty days from date of receipt of the order.

(3) No appeal shall lie against the order of settlement passed under sub-section (2) of section 7.

No. refund under the Act. **9.** Under no circumstances, the applicant shall be entitled to refund of any amount of arrears in disputes paid prior to the date of commencement of this Act and the amount paid under this Act.

Revocation of order of settlement. **10.** Notwithstanding anything contained in section 7, where it appears to the designated authority that, the applicant has obtained the benefit of settlement, by suppressing any material information or particulars or by furnishing any incorrect or false information or, if any suppression of material facts, concealment of any particulars is found in the proceedings related to search and seizure under the relevant Act, then the designated authority may, for reasons to be recorded in writing and after giving the applicant a reasonable opportunity of being heard, may revoke the order of settlement issued sub-section (2) of section 7.

Review. **11.** After an order is passed by the designated authority, the Commissioner may, on his own motion, at any time, within twelve months from the date of service of order, call for the record of such order and after notice of error in such order, in so far as it is prejudicial to the interest of revenue, may serve on the dealer a notice and pass an order to the best of his judgement, where necessary.

Power of Commissioner under the Act. **12.** (1) The Commissioner may, from time to time, issue instructions and directions as he may deem fit to the designated authorities for carrying out the purposes of this Act.

(2) The Commissioner may, by order specify the forms for the purpose of this Act.

Power to make rules. **13.** (1) The State Government may, by notification in the *Official Gazette* make rules to carry out the purposes of this Act.

(2) Every rule made under this section shall be laid, as soon as may be after it is made, before each House of the State Legislature while it is in session for a total period of thirty days which may be comprised in one session or in two successive sessions, and if, before the expiry of the session in which it is so laid or the session immediately following, both Houses agree in making any modification in the rule or both Houses agree that the rule should not be made, and notify such decision in the *Official Gazette*, the rule shall, from the date of publication of such notification, have effect only in such modified form or be of no effect, as the case may be, so ; however, that any such modification or annulment shall be without prejudice to the validity of anything previously done or omitted to be done under that rule.

STATEMENT OF OBJECTS AND REASONS.

With a view to give effect to the proposals contained in the Budget Speech for the year 2016-17, the Government considers it expedient for settlement of arrears in disputes under the various Acts administered by the Sales Tax Department. Large number of pending tax disputes under the repealed Acts as well as the existing Acts involve large amount of tax revenue, it has, therefore, decided to provide a scheme for settlement of disputes in respect of statutory order pertaining to any period ending on or before the 31st March 2012, against which appeal is filed and stay in full or part has been granted by the appellate authority or, as the case may be, by the Tribunal or Court, not later than 30th September 2016. The scheme envisages safeguarding of the tax revenue fully with incentives towards full or partial waiver of interest and complete waiver of penalty subject to the conditions laid down for settlement of disputes.

2. The Bill seeks to achieve the above objectives.

Mumbai,

Dated the 5th April 2016.

SUDHIR MUNGANTIWAR,

Finance Minister.

MEMORANDUM REGARDING DELEGATED LEGISLATION.

The Bill involves the following proposals for delegation of legislative power, namely :—

Clause 3(3).— Under this clause, power is taken to the Commissioner, to delegate the powers to the authorities as specified in sub-section (2) of section 3, by the notification in the *Official Gazette*.

Clause 12.— Under this clause, power is taken to the Commissioner, to issue instructions and directions as he may deem fit to the authorities and officers subordinate to him and to specify by order the relevant forms, for carrying out the purposes of the Act.

Clause 13.— Under this clause, power is taken to the State Government to make rules for carry out the purposes of the Act by notification in the *Official Gazette*.

2. The abovementioned proposals for delegation of legislative power are of normal character.

FINANCIAL MEMORANDUM

The Bill proposes to provide for settlement of arrears in dispute under various Acts administered by the Sales Tax Department so as to give effect to the proposals contained in the Budget Speech for the year 2016-17.

There is no provision in the Bill which would involve the recurring or non-recurring expenditure from the Consolidated Fund of the State on its enactment as an Act of the State Legislature.